

ORDINANCE NO. 11-50

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A RESTAURANT TO SELL AND SERVE BEER AND WINE FOR CONSUMPTION ON PREMISES, CONTRA TO HIALEAH CODE § 98-1371(a)(1), ON PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT). **PROPERTY LOCATED AT 8051 WEST 24 AVENUE, BAYS 16 AND 17, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hialeah, Florida at its regular meeting of June 14, 2011, directed the Law Department to provide this ordinance overriding the Planning and Zoning Board's recommendation of denial at its meeting of June 8, 2011; and

WHEREAS, Petitioner proffers a declaration of restrictive covenants to restrict the hours of service of the restaurant from 7:00 a.m. to 10:00 p.m., to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow a restaurant to sell and serve beer and wine for consumption on premises, contra to Hialeah Code § 98-1371(a)(1), which provides in pertinent part: "The permitted uses of the M-1 industrial district are the following: (1) Any uses permitted in a C-2 liberal retail commercial district, except that restaurants shall not sell, offer for sale, deliver, serve or permit to be consumed on the premises any alcoholic beverages, wine and/or beer."

Property located at 8051 West 24 Avenue, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District) and legally described as follows:

LOT 6, BLOCK 1, OF AUSTIN SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 155, AT PAGE 2, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. **(BAYS 16 & 17 ONLY)**

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

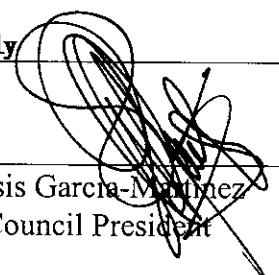
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

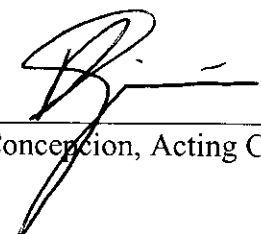
PASSED and ADOPTED this 26th day of July, 2011.

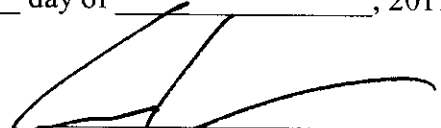
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia-Martinez
Council President

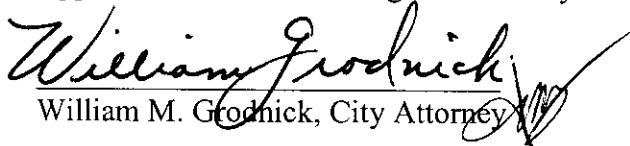
Attest:

Approved on this ____ day of ____, 2011.


David Concepcion, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

S:\LEB\LEGISLATION\2011-ORDINANCES\8051 West 24 Avenue Bays 16 & 17-2 COP bevaragelicense-restaurant M-1-OVERRIDE.doc

Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez and Yedra voting "Yes", Councilmember Gonzalez absent.